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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,136	01/12/2001	Stephen Nuss	990356.ORI	2264

23595 7590 12/03/2004  
NIKOLAI & MERSEREAU, P.A.  
900 SECOND AVENUE SOUTH  
SUITE 820  
MINNEAPOLIS, MN 55402

EXAMINER
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FOREMAN, JONATHAN M

ART UNIT	PAPER NUMBER
3736	

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/760,136

Applicant(s)

NUSS, STEPHEN

Examiner

Jonathan ML Foreman

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 12, 16-20 and 24-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12, 16-20 and 24-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/1/04 has been entered.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 12 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,984,679 to Farzin-Nia et al.

In regards to claims 12 and 20, Farzin-Nia et al. discloses a wire (Col. 3, lines 65 – Col. 4, line 6) having approximately 78% titanium, 11.5% molybdenum, 6% zirconium and 4.5% tin by weight (Col. 3, lines 1 – 5; See U.S. Patent No. 5,429,501 to Farzin-Nia et al. Col. 14, lines 14 – 23), the wire having a proximal end portion and a distal end portion where the distal end portion is tapered to a lesser diameter than the diameter of the proximal end portion (Figure 1A).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

Art Unit: 3736

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12, 16 – 20 and 24 – 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,776,330 to Chapman et al. in view of U.S. Patent No. 6,132,389 to Cornish et al.

In regards to claims 12, 16 – 20 and 24 – 27, Chapman et al. discloses a guidewire having approximately 78% titanium, 11.5% molybdenum, 6% zirconium and 4.5% tin by weight, but fails to disclose the guidewire having a tapered distal end portion, a helical coil attached to the distal end, a rounded distal tip member on the distal end, a polymeric or a hydrophilic coating. However, Cornish et al. discloses a guidewire having a tapered distal end portion (18), a helical coil (20) attached to the distal end, a rounded distal tip member (58) on the distal end, a polymer coating and a hydrophilic coating (Col. 3, lines 50 – 60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the guidewire as disclosed by Chapman et al. to include a tapered distal end portion as taught by Cornish et al. in order to increase the flexibility of the distal end of the guidewire. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the guidewire as disclosed by Chapman et al. to include a helical coil attached to the distal end as taught by Cornish et al. in order to facilitate fluoroscopic viewing of the device while in use and to increase the diameter of the distal section without adding substantial stiffness to the section (Col. 4, lines 36 – 45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the guidewire as disclosed by Chapman et al. to include a rounded distal tip member on the distal end as taught by Cornish et al. in order to attach the helical coil to the guidewire and to further smooth the transition from the guidewire to the helical coil (Col. 5, lines 5 – 12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the guidewire as

Art Unit: 3736

disclosed by Chapman et al. to include a polymeric or a hydrophilic coating as taught by Cornish et al. in order to increase the lubricity of the guidewire (Col. 3, lines 50 - 60).

***Response to Arguments***

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan ML Foreman whose telephone number is (571)272-4724. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571)272-4726.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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